
PLANNING PROPOSAL TO HERITAGE LIST 149 LIVINGSTONE AVENUE PYMBLE

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	For Council to consider the advice of the Ku-ring-gai Local Planning Panel on the Planning Proposal to heritage list 149 Livingstone Avenue, Pymble.
BACKGROUND:	The Ku-ring-gai Local Planning Panel considered the Planning Proposal at its meeting of 17 December 2018, consistent with the Section 9.1 Ministerial Direction.
COMMENTS:	The Ku-ring-gai Local Planning Panel advised Council not to refer the Planning Proposal to the Department of Planning and Environment for a Gateway Determination.
RECOMMENDATION:	Council notes the Ku-ring-gai Planning Panel's advice and refers the Planning Proposal to the Department of Planning and Environment for a Gateway Determination.

PURPOSE OF REPORT

For Council to consider the advice of the Ku-ring-gai Local Planning Panel on the Planning Proposal to heritage list 149 Livingstone Avenue, Pymble.

BACKGROUND

At its meeting of 8 May 2018, Ku-ring-gai Council resolved to place an interim heritage order [Section 25 *Heritage Act 1977 (NSW)*] on the property at 149 Livingstone Avenue, Pymble (Lot 3, DP 607951) to enable full and proper evaluation of the heritage significance and prevent any harm to the site in the interim. The IHO was valid for a period of six months unless Council passed a resolution before this date.

Council engaged the heritage consultant Ms Anne Warr to undertake the heritage review of the property. When the findings of the consultant were reported back to Ku-ring-gai Council with the recommendations not to proceed, the local community countered with an alternate heritage assessment prepared by Betteridge Heritage Consultants which contested the property had cultural significance and was worthy of heritage listing. This Betteridge Heritage report highlighted the social value of the property and the strong regard it is held with by the local community. Members of the community made numerous presentations to the Council, various State politicians and media outlets expressing the high value placed on this historic building and the community's strong opinion that 149 Livingstone Avenue, Pymble should be heritage listed and conserved.

On 16 October 2018 Council resolved:

- A. That Council proceed with the heritage listing of 149 Livingstone Avenue, Pymble; and*
- B. That in accordance with Section 3.31 of the Environmental Planning & Assessment Act 1979, Council prepares a Planning Proposal to list the property as a local heritage item and seeks a Gateway Determination accordingly.*

As per the Section 9.1 Ministerial Direction *Local Planning Panels Direction – Planning Proposals* (revised 27 September 2018) the draft Planning Proposal (see **Attachment A1**) for the heritage listing of 149 Livingstone Avenue Pymble was referred to the Ku-ring-gai Planning Panel for their advice. The local planning panel must give its advice before Council considers whether or not to forward it to the Minister or Greater Sydney Commission under section 3.34 of the *Environmental Planning and Assessment Act 1979*.

COMMENTS

The Ku-ring-gai Planning Panel considered the draft Planning Proposal for the heritage listing of 149 Livingstone Avenue Pymble at its meeting of 17 December 2018 and gave the following advice:

The Council not refer the Planning Proposal to the Department of Planning and Environment for a Gateway Determination.

The reasons given by the KLPP for this advice were that:

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Council has resolved to proceed with Planning Proposal in the face of a credible assessment that 149 Livingstone Avenue was not of local heritage significance by an independent Heritage Consultant Anne Warr, supported by its own Heritage Specialist Planner and heritage staff.

The draft heritage assessment by Heritage Consultant Anne Warr and the accompanying recommendation in the report by Council staff were favourably reviewed by Paul Davies Pty Ltd.

The Panel noted the following incompatible changes are generally impracticable to reverse:

- 1) The additions of second storey attic windows.*
- 2) Replacement of original terra cotta roof tiles*
- 3) In fill of front verandah*
- 4) Painted face brick*
- 5) An attached car port*
- 6) Timber verandah floor*
- 7) Major additions at the rear*
- 8) Modification of garden landscape*

The heritage assessment by Chris Betteridge that supported the inclusion of the property as a local heritage item was commissioned by Local Residents Action Group 149. The Betteridge assessment relied upon disputed historical associations with the Hamilton family and the architect Thomas James Darling and based the social values and significance of the property at a local level on the degree of concern shown by the residents which is currently opposing the redevelopment of the site

An extract of the minutes of the Ku-ring-gai Local Planning Panel's 17 December 2018 meeting can be seen at **Attachment A2**.

INTEGRATED PLANNING AND REPORTING

Theme 3 – Places, Spaces and Infrastructure

Community Strategic Plan Long Term Objective	Delivery Program Term Achievement	Operational Plan Task
P5.1 Ku-ring-gai's heritage is protected, promoted and responsibly managed	P5.1.1 Strategies, plans and processes are in place to effectively protect and preserve Ku-ring-gai's heritage assets	P5.1.1.1 Implement, monitor and review Ku-ring-gai's heritage planning controls

GOVERNANCE MATTERS

The process for the preparation and implementation of Planning Proposals is governed by the provisions contained in the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2000*.

Local Planning Panels Direction – Planning Proposals issued by the Minister for Planning under Section 9.1 of the *Environmental Planning and Assessment Act 1979* requires Council to refer all Planning Proposals prepared after 1 June 2018 to the Local Planning Panel for advice, before it is forwarded to the Minister for Gateway Determination under Section 3.34 of the *Environmental*

Planning and Assessment Act 1979. A revised s9.1 Direction was made by the Minister on 27 September 2018 which clarified that a Planning Panel must provide its advice on a Planning Proposal before Council resolves to forward it for a Gateway Determination under Section 3.34.

This Planning Proposal is now being reported back to Council, subsequent to the Planning Panel providing its advice. Then the Planning Proposal with both Council's resolution and the Local Planning Panel's Advice will be forwarded to the Minister for consideration on whether to issue a Gateway Determination.

RISK MANAGEMENT

Heritage listing enables Council to conserve places that are valued by our local community for now and for generations to come.

FINANCIAL CONSIDERATIONS

The cost of preparing the Planning Proposal is covered by the Strategy and Environment budget.

SOCIAL CONSIDERATIONS

The identification and protection of Ku-ring-gai's heritage places contributes to the ongoing conservation of Ku-ring-gai's community-valued historic landscape and garden suburbs.

ENVIRONMENTAL CONSIDERATIONS

The retention and conservation of heritage places has an important role in protecting the environment. The environmental sustainability benefits afforded by the retention of heritage places includes the substantial reduction in building, demolition and new construction waste, and the conservation of embodied energy in the existing buildings.

COMMUNITY CONSULTATION

Should the Planning Proposal be granted a Gateway Determination by the NSW Department of Planning and Environment, the Planning Proposal will be placed on statutory public exhibition in accordance with the requirements of the Gateway Determination and the Department's publication '*A Guide to Preparing Planning Proposals*' (August 2016).

During the statutory public exhibition, the community will be invited to make submissions on the proposal.

Notification of this matter going to Council was provided to the property owner and Adrian Batterby on behalf of the 149 Community Action Group.

INTERNAL CONSULTATION

Consultation has been undertaken with relevant internal sections of Council where required for the preparation of the Planning Proposal, and this report.

SUMMARY

On 16 October 2018 Council resolved to prepare a Planning Proposal to heritage list 149 Livingstone Avenue, Pymble on Schedule 5 of Ku-ring-gai Local Environmental Plan 2015.

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The listing is based upon the heritage assessment by Betteridge Heritage which found the property has historic, aesthetic and social significance, is a representative example of a Federation bungalow and has historical associations with the Hamilton family who were prominent developers and business people in the Pymble area in the early 1900s.

As per the requirements of the Ministerial Direction, the Ku-ring-gai Local Planning Panel have given their advice and recommended that Council not refer the Planning Proposal to the Department of Planning and Environment for a Gateway Determination.

It is recommended the Planning Proposal to be submitted to the Department of Planning and Environment for a Gateway Determination to facilitate a statutory exhibition and community engagement as to whether 149 Livingstone Avenue Pymble should be listed as a heritage item.

RECOMMENDATION:

- A. Council notes the Ku-ring-gai Planning Panel's advice;
- B. Council refers the Planning Proposal to heritage list 149 Livingstone Avenue, Pymble to the Department of Planning and Environment for a Gateway Determination.

Andreana Kennedy
Heritage Specialist Planner

Antony Fabbro
Manager Urban & Heritage Planning

Andrew Watson
Director Strategy & Environment

Attachments:	A1	Draft Planning Proposal - 149 Livingstone Avenue Pymble	2018/356788
	A2	KLPP minutes 17 December 2018 - advice on Planning Proposal to heritage list 149 Livingstone Avenue Pymble	2019/002042